

**TOWNSHIP OF UPPER SAUCON  
LEHIGH COUNTY, PENNSYLVANIA  
ORDINANCE NO. 42- R**

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF UPPER SAUCON  
TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA, ESTABLISHING  
CONSTRUCTION STANDARDS, OPERATIONAL STANDARDS, REQUIREMENTS  
FOR AND DESIGN OF CONNECTIONS, INSPECTION CRITERIA AND OTHER  
GUIDELINES TO CONTROL WASTEWATER DISCHARGES INTO THE  
UPPER SAUCON TOWNSHIP PUBLICLY OWNED TREATMENT WORKS  
AND TO ESTABLISH A PERMIT ENFORCEMENT SYSTEM RELATED THERETO**

**I. LEGISLATIVE FINDINGS.**

**WHEREAS**, pursuant to both Federal and State laws and regulations Upper Saucon Township (hereinafter, "Township") operates and maintains a municipal sanitary sewer system consisting of a series of collection lines, interceptors, a waste water treatment plant (hereinafter, "WWTP") and appurtenances related thereto; and

**WHEREAS**, pursuant to the Federal Clean Water Act (formerly the Water Pollution Control Act), 33 U.S.C. 1251, et. seq., (hereinafter, "Act") the Upper Saucon Sewage Treatment Authority (hereinafter, "USSTA") is the Part I NPDES Permittee for the WWTP under a duly issued NPDES Permit, No. PA 005314 (hereinafter, "NPDES Permit"); and

**WHEREAS**, pursuant to the Act, the Upper Saucon Township Municipal Authority (hereinafter, "USTMA") is the Part II Permittee for the municipal sanitary sewer collection system; and

**WHEREAS**, the Township operates, maintains, repairs, funds and improves the municipal sanitary sewer collection system and the WWTP as leasee; and

**WHEREAS**, the NPDES Permit requires, among other things, that the USSTA, as Permittee, and the Township, as Lessee, regulate and control the characteristics of the wastewater entering the municipal sanitary sewer system, which system is also referred to as a Publicly Owned Treatment Works (hereinafter, "POTW"); and

**WHEREAS**, the high degree of potential for harm to public facilities and the environment requires regulation of the introduction of certain harmful materials and substances into the POTW as well as a means of implementing and enforcing the regulations through a permit process; and

**WHEREAS**, such materials and substances can prevent the WWTP from operating properly and thus producing an effluent failing to meet the requirements of the National Pollution Discharge Elimination System and the Permit; and

**WHEREAS**, infiltration and inflow (hereinafter, "I/I") from various sources, including building sewers and sanitary mains, utilize hydraulic capacity in the POTW and may cause hydraulic overloading and overflows as well as violations of the performance standards required by the NPDES Permit; and

**WHEREAS**, pursuant to regulations of the Pennsylvania Department of Environmental Protection found at 25 Pa. Code Chapter 94, the Township has implemented, and continues to implement, certain Corrective Action Plans to reduce I/I and the associated hydraulic overload conditions in the POTW; and

**WHEREAS**, the Board of Supervisors find that the creation of a stringent permit system, and in certain instances a pretreatment program, are necessary to meet the requirements of the NPDES Permit as well as Federal and State laws and regulations; and

**WHEREAS**, the Board of Supervisors hereby adopts this Ordinance pursuant to the requirements of Federal and State laws and regulations as well as Article 25 of the Second Class Township Code, relating to sanitary sewers, and the public health, safety and welfare, generally.

**NOW THEREFORE**, the Supervisors of Upper Saucon Township hereby enact and ordain the following:

## **II. ORDINANCE TEXT.**

### **A. GENERAL PROVISIONS.**

#### **A.1 Purpose and Objectives.**

**A.1.1** This Ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works serving Upper Saucon Township (hereinafter, "Township") and other municipal entities and enables the Township to comply with all applicable Federal and State laws and regulations, including the Clean Water Act (33 United States Code § 1251 *et. seq.*) and the General Pretreatment Regulations found at Title 40, Part 403, of the Code of Federal Regulations. The objectives of this Ordinance are:

1. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
2. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
3. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the public, generally;
4. To promote reuse and recycling of industrial wastewater and sludge from the POTW;
5. To provide for fees based upon the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
6. To enable the Township, USSTA and USTMA to comply with all NPDES permit conditions, sludge use and disposal requirements, and the requirements of any other laws or regulations to which the POTW is subject.

**A.1.2** This Ordinance shall apply to all users of the POTW. It authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting and provides for the setting of fees based upon the equitable distribution of costs resulting from the program established herein.

**A.2 Administration.**

**A.2.1** Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other Township employees or officials.

**A.3 Abbreviations.**

**A.3.1** The following abbreviations are used in this Ordinance and shall have the following meanings:

- BOD** - Biochemical Oxygen Demand
- CFR** - Code of Federal Regulations
- COD** - Chemical Oxygen Demand
- EPA** - US Environmental Protection Agency
- FOG** - Fats, oils and greases
- gpd** - gallons per day
- mg/l** - milligrams per liter
- NOV** - Notice of Violation
- NPDES** - National Pollutant Discharge Elimination System
- PADEP** - Pennsylvania Department of Environmental Protection
- POTW** - Publicly Owned Treatment Works
- RCRA** - Resource Conservation and Recovery Act
- SIC** - Standard Industrial Classification
- SIU** - Significant Industrial User
- TSS** - Total Suspended Solids
- U.S.C.** - United States Code
- WDP** - Wastewater Discharge Permit

**A.4 Definitions.**

**A.4.1** Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated.

**A.4.2 Act or the Act** - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et. seq.*

**A.4.3 Approval Authority** – EPA Region III Administrator.

**A.4.4 Authorized or Duly Authorized Representative of the User** –

1. If the User is a corporation:
  - (a). The President, secretary, treasurer or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (b). The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive

measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
3. If the User is a limited liability company, the managing member, and if no managing member then the member or members.
4. If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
5. The individuals described in paragraphs 1, 3 and 4, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Township.

**A.4.5 Best Management Practices (BMPs)** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section B.1.1 and B.1.2 [40 CFR 403.5(a)(1) and (b)]. BMPs include but are not limited to treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

**A.4.6 Biochemical Oxygen Demand (BOD)** - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

**A.4.7 Categorical Pretreatment Standard or Categorical Standard** - Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

**A.4.8 Chemical Oxygen Demand (COD)** - A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

**A.4.9 Control Authority** – The Upper Saucon Township Board of Supervisors.

**A.4.10 Daily Maximum** - The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

**A.4.11 Daily Maximum Limit** - The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

**A.4.12 Environmental Protection Agency (EPA)** - The US Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said Agency.

**A.4.13 Existing Source** - Any source of discharge that is not a "New Source."

**A.4.14 Fats, Oils and Greases (FOG)**. Organic, polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 C.F.R. 136, as may be amended from time to time.

**A.4.15 Grab Sample** - A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

**A.4.16 Grease Interceptor**. A wastewater pretreatment unit that is installed in a sanitary drainage system in order to intercept and remove FOG from wastewater discharge and which is installed outside of the facility. Grease Interceptors are subject also to Township Ordinance No. 154, adopted March 11, 2013, and subsequent amendments or revisions thereof.

**A.4.17 Indirect Discharge or Discharge** - The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

**A.4.18 Instantaneous Maximum Allowable Discharge Limit** - The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**A.4.19 Interference** - A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and as a result, is in whole or in part a cause of a violation of the Township's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations:

1. Section 405 of the Act;
2. The Solid Waste Disposal Act, including Title II thereof, commonly referred to as the Resource Conservation and Recovery Act (RCRA);
3. Any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act;
4. The Clean Air Act;
5. The Toxic Substances Control Act; and
6. The Marine Protection, Research, and Sanctuaries Act.

**A.4.20 Medical Waste** - Isolation wastes, infectious agents, human or animal blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

#### **A.4.21 New Source –**

1. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (a). The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (b). The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (c). The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above, but otherwise alters, replaces, or adds to existing process or production equipment.
3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  - (a). Begun, or caused to begin, as part of a continuous onsite construction program
    - (i) any placement, assembly, or installation of facilities or equipment; or
    - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (b). Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

**A.4.22 Noncontact Cooling Water** - Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

**A.4.23 Owner** - The owner(s) in fee simple, lessees, tenants, occupiers and all other persons having a beneficial use or interest in the premises and occupying the same with the consent and permission of the owner of the fee title.

**A.4.24 Pass Through** - A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation or potential for a violation of any requirement of the NPDES permit, including an increase in the magnitude or duration of a violation.

**A.4.25 Person** - Any individual, partnership, limited liability partnership, firm, company, limited liability company, corporation, political subdivision, authority, association, joint stock company, trust, estate, governmental entity or any other legal entity, and with respect to each, its legal representatives, agents or assigns. This definition includes all Federal, State, and local governmental entities.

**A.4.26 Petroleum Products** - Products and materials obtained from crude oil and natural gas processing, including without limitation asphalt, automotive gasoline, aviation gasoline, fuel oil, kerosene, liquefied petroleum gas (LPG), lubricants, naphtha and waxes.

**A.4.27 pH** - A measure of the acidity or alkalinity of a solution, expressed in standard units.

**A.4.28 Pollutant** - Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, FOG, munitions, medical wastes, laboratory wastes, chemical wastes, biological materials, radioactive materials, heat (thermal), wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

**A.4.29 Pretreatment** - The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes or by other lawful means. Dilution of the concentration of the pollutants shall not constitute a method of pretreatment unless specifically authorized by an applicable pretreatment standard.

**A.4.30 Pretreatment Requirements** - Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

**A.4.31 Pretreatment Standards or Standards** - Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

**A.4.32 Prohibited Discharge Standards or Prohibited Discharges** - Absolute prohibitions against the discharge of certain substances. These prohibitions appear in Section 2.1 of this Ordinance.

**A.4.33 Publicly Owned Treatment Works (POTW)** - A sewage treatment plant owned by a state or municipality as defined by Section 212 of the Act, including any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. The POTW includes also the sewers, pipes and other conveyances that convey wastewater to the sewage treatment plant. The term includes also the municipality as defined in Section 212 of the Act having jurisdiction over the indirect discharges to, and the discharges from, such a treatment works. For purposes of this Ordinance, the phrase "municipal sanitary sewer system" and "POTW" may be used interchangeably.

**A.4.34 Septic Tank Waste** - Any sewage from holding tanks (including by way of example vessels, chemical toilets, campers, trailers, septic tanks, etc.).

**A.4.35 Sewage** - Human excrement and gray water (including by way of example household shower and dishwashing operations, etc.).

**A.4.36 Significant Industrial User (SIU)** – Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

1. An Industrial User subject to categorical Pretreatment Standards; or
2. An Industrial User that:
  - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
  - (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (c) Is designated as such by the Township on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
3. The Township may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiling blowdown wastewater, unless specifically included in a Pretreatment Standard) and the following conditions are met:
  - (a) The Industrial User, prior to [Township's] finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
  - (b) The Industrial User annually submits the certification statement required in Section 6.14B [see 40 CR 403.12(q)], together with any additional information necessary to support the certification statement; and
  - (c) The Industrial User never discharges any untreated concentrated wastewater.
4. Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the Township may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

**A.4.37 Slug Load or Slug** - Any discharge at a flow rate or concentration which could cause a violation or a potential for a violation of the prohibited discharge standards in Section 2.1 of this Ordinance.

**A.4.38 Standard Industrial Classification (SIC Code)** - A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

**A.4.39 Storm Water** - Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation. This phrase includes storm water produced from melting snow.

**A.4.40 Superintendent** - The Director of Water Sewer Resources as designated by the Township to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Ordinance, including his or her duly authorized representative or designee.

**A.4.41 Suspended Solids** - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

**A.4.42 Township** - Upper Saucon Township.

**A.4.43 USSTA** - The Upper Saucon Sewage Treatment Authority.

**A.4.44 USTMA** - The Upper Saucon Township Municipal Authority.

**A.4.45 User or Industrial User** – A source of indirect discharge to the POTW.

**A.4.46 Wastewater** - Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

**A.4.47 Wastewater Treatment Plant or Treatment Plant** - That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

## **A.5 Interpretation.**

**A.5.1** As used in this Ordinance and unless the context clearly indicates to the contrary words in the singular include the plural and vice versa and words in one gender or the neuter include all genders or the neuter.

**A.5.2** Any headings appearing in connection with Parts, Sections and sub-sections of this Ordinance are for convenience only and are not intended to be full or precise descriptions of the text to which they refer and shall not be considered part of this Ordinance.

**A.5.3** The term “Authorities” includes the USTMA and the USSTA.

**A.5.4** The term “law” includes without limitation all amendments, successors and any regulations and rules enacted pursuant thereto.

## **B. GENERAL SEWER USE REQUIREMENTS.**

### **B.1 Prohibited Discharge Standards.**

**B.1.1 General Prohibitions.** No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

**B.1.2 Specific Prohibitions.** No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
2. Wastewater having a pH less than 5.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2 in.) in any dimension;
4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
5. Wastewater having a temperature greater than 95°F or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 95°F;
6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
7. Pollutants which result in the presence of toxic gases, vapor, or fumes within the POTW in a quantity that may cause worker health and safety problems;
8. Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with Section C.4 of this Ordinance;
9. Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewer for maintenance or repair,
10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating or causing a potential for violation of the NPDES permit;
11. Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable State or Federal regulations;
12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, noncontact cooling water and unpolluted wastewater, unless specifically authorized by the Superintendent;
13. Sludge, screenings or other residues from the pretreatment of industrial wastes;
14. Medical or laboratory wastes which cause or may cause a pass through or interference, except as specifically authorized by the Superintendent in a wastewater discharge permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

16. Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW;
17. FOG in concentrations greater than 100 mg/l; or
18. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5 %) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.

**B.1.3** Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

## **B.2 Use of POTW Facilities.**

**B.2.1** The owner of any property adjoining or adjacent to any POTW constructed by the Township, or whose principal building is within one hundred fifty feet (150') of any POTW constructed by the Township, shall connect with and use such POTW within ninety (90) days after service of a notice to do so by the Board of Supervisors or its designated agent.

**B.2.2** The owner of any property which is accessible to and whose principal building is within one hundred fifty feet (150') of an existing POTW which has been extended or altered at the expense of any person under the supervision of the Township shall connect with and use such POTW within ninety (90) days after service of a notice to do so by the Board of Supervisors or its designated agent.

**B.2.3** The Board of Supervisors hereby designates the Superintendent to act as its agent for all purposes under subsections 2.1 and 2.2, above. Service of the notices required by subsections 2.1 and 2.2 shall be accomplished by either personal service or by registered mail.

## **B.3 Building Sewers and Connections.**

**B.3.1** No unauthorized persons shall uncover, make any connections with or openings into, use, alter or disturb the POTW or any appurtenance thereof without first obtaining a user permit from the Superintendent and/or the Township as set forth in Part D of this Ordinance.

**B.3.2** As used in this Section, the phrase "building sewer" shall include all pipes, grinder pumps and appurtenances installed or to be installed between the building and the sanitary sewer main. The term "connection" shall mean the physical connection of the building sewer to the sewer main.

**B.3.3** Regardless of permit class, the owner or his agent shall make application for the same on a form provided by the Township. The application shall be supplemented by any plans, specifications or other information considered pertinent by the Township or Superintendent.

**B.3.4** All costs and expenses incidental to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the Township and its Authorities from any loss or damage that arises out of or relates to, either directly or indirectly, the installation of the building sewer, any treatment units or their related appurtenances.

**B.3.5** A separate and independent building sewer shall be provided for every building and, as the Superintendent shall direct, every dwelling unit or commercial unit contained within a building. Old building sewers may be used in connection with new buildings only when found, on examination and testing by the Superintendent, to meet all requirements of this Ordinance. The building sewer shall be the

property of the Owner who shall be responsible for all maintenance and repairs thereof, except that the Township shall perform all maintenance and repairs within sewer easements and street rights of way at the owner's expense.

**B.3.6** The size, slope, alignment and materials of construction of a building sewer and the methods to be used in excavating, placing and installation of the pipe, joint testing and backfilling the trench, shall all conform to Ordinance No. 91-B (adopting the "Standard Sewer Specifications, dated March, 2014") and Ordinance No. 130 (adopting the Pennsylvania Uniform Construction Code). Any deviation there from is prohibited unless approved in writing by the Township Code Official or Superintendent, as the case may be, prior to installation. In the event of a conflict between the requirements of Ordinance No. 91-B and Ordinance No. 130, the requirements of Ordinance 91-B shall control.

**B.3.7** Unless the subject of an approved, written waiver request, the building sewer shall be brought to the building at an elevation below the basement floor. Reasonable conditions, consistent with applicable laws, regulations and ordinances may be imposed in connection with the grant of a waiver request.

**B.3.8** No person shall make connection of sump pumps, roof downspouts, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which is in turn connected directly or indirectly to the POTW.

**B.3.9** The owner or his agent shall notify the Township when the building sewer is ready for inspection and connection to the POTW. The connection to the POTW shall be performed under the supervision of the Superintendent and all inspection and testing shall be performed by the Superintendent, who may delegate such duties to a qualified engineer, third party inspector or both. The inspection and testing shall be performed within a reasonable period of time following the actual receipt of notice.

**B.3.10** No excavation, construction, or connection work shall be commenced on Township or Authority property or within a Township or Authority right-of-way until the owner or his agent shall have first filed security in a form and in an amount approved by the Township. The owner shall obtain all ancillary permits from the Township such as road opening permits, etc.

**B.3.11** The owner shall indemnify, defend and hold harmless the Township and its Authorities against any and all claims, demands, losses, damages, costs and expenses which the Township or its Authorities may suffer, incur, be put to or pay by reason of the failure to complete properly any of the work hereunder.

**B.3.12** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored to a condition satisfactory to the Township or the Authorities as the case may be.

**B.3.13** A certificate of occupancy shall not be issued until such time as the Superintendent or his designee shall approve the building sewer and connection.

**B.4 National Categorical Pretreatment Standards.**

**B.4.1** The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

**B.4.2** Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

**B.4.3** When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent may impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

**B.4.4** A User may obtain a variance from a categorical pretreatment standard if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

**B.4.5** A User may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

**B.5 State Requirements.** PADEP requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements or limitations or the requirements or limitations of this Ordinance.

**B.6 Local Limits.**

**B.6.1** The Superintendent is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

**B.6.2** [Reserved] Pollutant Limits.

**B.6.3** [Reserved] Point of application of limits and mass limitations.

**B.6.4** The Superintendent may develop BMPs, by ordinance or in individual wastewater discharge permits to implement Local Limits and the requirements of subsections B.1.1 and .2.

**B.7 Township's Right of Revision.** The Township reserves the right to establish, either by ordinance or permit, more stringent standards or requirements on discharges to the POTW.

**B.8 Dilution.** Unless expressly authorized by an applicable pretreatment standard or permit requirement, no User shall increase the use of process water or dilute a discharge as a partial or complete substitute for adequate treatment for the purpose of achieving, in whole or in part, compliance with a discharge limitation. In addition to other remedies under this Ordinance, the Superintendent may impose mass limitations on users who are using dilution as a means to meet pretreatment standards or permit requirements or where imposition of mass limitations is appropriate.

**B.9 Privately Owned and Operated Sanitary Sewer Collection Systems.**

**B.9.1 Definitions.**

**B.9.1.1 Privately Owned and Operated Sanitary Sewer Collection System (POCS) -** A privately owned, sanitary sewer collection system developed and built to serve more than one building or structure and discharge directly to the POTW. This definition includes but is not limited to Users and facilities such as mobile home parks, industrial complexes, retirement communities and any other facility with multiple buildings using a common or internal collection

system. A POCS includes a sanitary sewer collection system for which the Township has not yet accepted an offer of dedication.

**B.9.1.2 Good Working Order** – A standard of operation for the POCS which includes but is not limited to the following: elimination of and protection against overflow, infiltration, inflow, blockages and obstructions; regular and periodic inspections and the taking of prompt, and where necessary immediate, repair and corrective measures.

**B.9.2 Compliance.**

**B.9.2.1** Any person owning or operating a POCS shall operate and maintain the POCS in good working order and in full compliance with this Ordinance and all applicable Federal, State and local laws, regulations, ordinances and permits governing the operation of the POTW.

**B.9.2.2** Where the owner or operator of the POCS knows or through the exercise of reasonable diligence should know that the POCS or any part thereof is not in good working order, such person shall immediately notify the Superintendent and commence corrective measures.

**B.9.2.3** Upon notification to the Superintendent pursuant to sub-section B.9.2.2 above, the Superintendent shall issue a notice in writing to the owner or operator identifying the corrective action to be taken and the timeframe in which to complete the same.

**B.9.3 Reporting Requirements.**

**B.9.3.1** The owner or operator of a POCS shall comply with all of the reporting requirements of this Ordinance.

**B.9.3.2** In addition to the general reporting requirements of this Ordinance, the owner or operator of a POCS shall provide to the Township the following information:

1. An annual report setting forth sewer system specifications, projected flow rates, a description of operational procedures utilized, a description of all inspections and the results thereof, identification of all maintenance procedures performed, identification/discussion of known problems and identification and discussion of the system operations.

**B.9.4 Application to Existing Users.** This Section shall apply to existing Users of the POTW.

**B.9.5 Designated Operator.**

**B.9.5.1** Every person operating a POCS shall designate a qualified, and where necessary certified, individual or entity as the POCS system operator as that term is utilized in the applicable Federal, State and local laws, regulations and Ordinances.

**B.9.6 Permits.** [Reserved]

**B.9.7 Violations.** A violation of this Section shall subject an owner, operator or both to the provisions of Parts J and K of this Ordinance.

## **C. PRETREATMENT OF WASTEWATER.**

**C.1 Pretreatment Facilities.** Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Part B of this Ordinance and other, applicable Township ordinances within the time limitations specified by EPA, the State or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Township for review and shall be approved by the Township before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Township under the provisions of this Ordinance.

### **C.2 Additional Pretreatment Measures.**

**C.2.1** Whenever deemed necessary, the Superintendent may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams and such other measures as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Ordinance.

**C.2.2** The Township or the Superintendent, as the case may be, may require any person discharging into the POTW to install and maintain, on its property and at its expense, a suitable storage and flow control facility to ensure equalization of flow.

**C.2.3** Separators and interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of petroleum products and sand. All interception units shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

**C.2.4** Grease interceptors shall be provided as required by applicable Township Ordinances.

**C.2.5** Users with the potential to discharge wastewater under sub-section B.1.2(18) may be required to install and maintain an approved combustible gas detection meter.

### **C.3 Accidental Discharge/Slug Control Plans.**

**C.3.1** At least once every two (2) years, the Superintendent shall evaluate whether each SIU requires an accidental discharge/slug control plan. The Superintendent may require a User to develop, submit for approval and implement such a plan. Alternatively, the Superintendent may develop such a plan for a User.

**C.3.2** An accidental discharge/slug control plan shall contain, at a minimum, the following:

1. A description of discharge practices, including non-routine batch discharges;
2. A description of stored chemicals;
3. Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by Section F.6 of this Ordinance; and

4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures shall include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, construction / use of containment structures or equipment, measures for containing toxic organic pollutants and solvents and measures and equipment for emergency response.

**C.4 Hauled Wastewater.** Septic tank or other hauled waste shall not be introduced into the POTW at any location.

## **D. WASTEWATER DICHARGE PERMIT APPLICATIONS**

### **D.1 Permits Required.**

**D.1.1** Unless otherwise authorized herein, it shall be unlawful to discharge wastewater to the POTW without a permit issued by the Township.

**D.1.2** All Users, regardless of class, shall obtain from, the Township a WDP prior to discharging wastewater into the POTW. The foregoing notwithstanding, an SIU who has filed an application pursuant to subsection D.2.10 of this Ordinance may continue to discharge for the time period specified in that subsection.

**D.1.3** Any violation of the terms and conditions of a WDP shall constitute a violation of this Ordinance and may subject the User to Parts J through L of this Ordinance. Obtaining a WDP does not relieve a User of its obligation to comply with all Federal and State pretreatment standards or requirements or any other requirements of Federal, State and local law, regulations or ordinances.

### **D.2 Permit Classifications and Applications.**

**D.2.1** There shall be three classes of wastewater discharge (User) permits as follows:

1. Class I – permitting service to an SIU as that term is defined in this Ordinance;
2. Class II - permitting for commercial or industrial users having pollutants regulated by law, regulation or Township ordinances; and
3. Class III - permitting for residential and commercial services which discharge only domestic type waste containing no pollutants regulated by law, regulation or other Township ordinances.

**D.2.2** The owner or its agent shall make application for a WDP on a form provided by the Township. The application shall be completed fully and supplemented by any plans, specifications or other information considered pertinent in the judgment of the Superintendent or the Township. At the time of application filing, a permit review fee (as established from time to time by resolution of the Township) shall be paid to the Township. All applications shall be reviewed and rejected or approved in writing by the Township.

**D.2.3** Upon receipt of an application, the Township or Superintendent, as the case may be, shall make a determination as to whether it is administratively complete in accordance with subsection D.3.5. If deemed complete, the application shall be reviewed in accordance with the requirements of this Ordinance. If deemed incomplete, it shall be rejected with a statement in writing specifying the defects.

**D.2.4** Following review, the Township may:

1. Approve the application and issue the WDP in draft form (a Class III WDP may be issued in final form);
2. Reject the application with a statement in writing specifying the ground(s) for rejection;
3. Approve the application subject to conditions, which may include but need not be limited to compliance with monitoring and reporting requirements, compliance with pollutant limitations and any other conditions deemed necessary by the Township to ensure continued compliance with pretreatment standards and any other applicable laws, regulations and ordinances; and
4. Request that the applicant supplement the application with additional materials deemed necessary for further review and consideration.

**D.2.5** Following the issuance of a wastewater discharge permit, the Superintendent may:

1. Modify an existing permit to respond to changes in industrial discharges to alleviate problems at the POTW, to meet water quality standards or to incorporate national categorical pre-treatment standards and requirements;
2. Prohibit the transfer of user permits when an industry is acquired by a new owner; and
3. Revoke a permit in response to a violation of the permit requirements or conditions.

**D.2.6** The Township may require a User to provide all information deemed necessary to determine compliance with this Ordinance and applicable Federal, State or local laws, regulations or ordinances, including:

1. Wastewater discharge peak rate and volume records over a specified time period;
2. Information on raw materials processes and products affecting wastewater volume and quality;
3. Quantity and disposition of specific liquid, sludge, oil, solvent or other materials used or discharged and important to sewer use control;
4. A plot plan of sewers on the User's property showing sewer facility locations and all proposed sewer connections; and
5. Details of systems to prevent and control storm water from entering municipal sewers.

**D.2.7** All measurements, tests, and analyses of the characteristics of waters and wastewaters to which reference is made in this Ordinance shall be determined in accordance with procedures established by the PADEP or such other approval authority pursuant to Section 304(g) of the Act, and contained in 40 CFR Part 136 and amendments thereto, or with any other test procedures so approved. Sampling shall be performed in accordance with the techniques approved by the PADEP or approval authority, and all sampling and analysis shall be performed by a PADEP certified laboratory.

**D.2.8** The User shall submit all applicable county, regional, state, or federal permits or planning documents required for approval of the sewer connection.

**D.2.9** Within thirty (30) days of the date of a written request of the Superintendent, a User shall submit information concerning the nature and characteristics of its wastewater. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

**D.2.10** Any Class I or II User discharging wastewater into the POTW prior to the effective date of this Ordinance who desires to continue such discharge after the effective date of this Ordinance shall, within one year after said date, apply for a permit in accordance with this Part D. Nothing contained herein shall authorize a User to cause or allow discharges to the POTW beyond the one year period.

**D.2.11** Any Class I or II User required to obtain a WDP who proposes to begin discharging (or to recommence discharging) into the POTW must obtain a permit prior to beginning such discharge. A permit application in accordance with this Part must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

**D.2.12** Upon connection of a new source or upon the occurrence of changed conditions as more specifically as more specifically described in this Ordinance, a Class I or II User shall obtain a permit in accordance with the requirements of this Ordinance.

### **D.3 Wastewater Discharge Permit Application.**

**D.3.1 Class I and II Permits.** All Class I and II Users shall submit a WDP application on a form to be provided by the Township and meeting the requirements of this Ordinance.

**D.3.2** The Superintendent may require the following information as part of a Class I or II application submission:

1. All information required by subsection F.1.3;
2. Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
3. Number and type of employees, hours of operation and proposed or actual hours of operation;
4. Each product produced by type, amount, process or processes, and rate of production;
5. Type and amount of raw materials processed (average and maximum per day);
6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
7. Time and duration of discharges; and
8. Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

**D.3.3 Class III Permits.** All Users not requiring a Class I or II Permit shall submit a permit application for a Class III permit on a form to be provided by the Township and meeting the requirements of this Ordinance.

**D.3.4** The Superintendent may require the following information as part of a Class III application submission:

1. The name of the contractor to perform the work to connect the premises to the POTW;
2. With respect to commercial premises, the following:
  - (a) A description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
  - (b) The number and type of employees and proposed or actual hours of operation;
  - (c) Each product produced by type, amount, process or processes and rate of production;
  - (d) The type and amount of raw materials processed (average and maximum per day);
  - (e) Site plans, floor plans, mechanical and plumbing plans and details depicting all sewers, floor drains and appurtenances by size, location and elevation and all points of discharge;
  - (f) The time and duration of discharges; and
  - (g) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

**D.3.5 Certification and Execution.** Every application shall be signed by the User or an authorized representative and contain the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**D.3.6 Incomplete Application.**

**D.3.6.1** Upon the receipt of an application, the Superintendent shall have ten (10) business days to determine whether the same is administratively complete. If deemed complete, the review process shall commence. If deemed incomplete, it shall be rejected with a written notification specifying the defects. For the purpose of this Ordinance, the phrase "administratively complete" shall mean an application which is fully completed with all information requested provided in reasonable detail and with all required documents attached, properly executed, all fees paid and the required number of copies supplied.

**D.3.6.2** No formal review or action shall be taken on an application until it is deemed administratively complete and all supplementary materials, if any, as requested by the Superintendent, have been provided.

**D.3.7 Fees and Costs.** The Township may establish from time to time, by resolution, a schedule of fees and costs, together with escrow requirements, relating to the issuance, renewal, transfer or re-issuance of a WDP.

**D.3.8 Exemption.** Except as required by Section D.1, upon written approval of the Township, a User may be exempted from certain permit requirements of this Ordinance. To be considered for exemption, an applicant shall provide a formal exemption request and include as a part thereof the following:

1. Drawings and other design documents and
2. A detailed description of all proposed operations and activities.

**D.3.9 Issuance of Permits.** The following procedure shall apply to the issuance of Class I and II Permits:

1. Upon review of the completed application, the Township shall issue a Class I or II permit in draft form. The draft permit shall specify, among other things, the required pretreatment facilities, reporting requirements and discharge standards.
2. If the User objects to any of the requirements of the draft permit, then no later than forty-five (45) days from the date of issuance thereof, the User shall provide written comments to the Township, providing all data, citations or other material in support of the objection. The Township shall review the comments and issue a final permit. If changes are made to the Permit as a result of the User's comments, a new draft Permit will issue.
3. Upon expiration of the forty-five (45) day comment period without objection or upon notification from the User of no comment, whichever shall first occur, the Township shall issue the final permit.
4. The User may appeal from the issuance of the final permit in accordance with the requirements of this Ordinance.

**D.3.10 Public Notice. [Reserved].**

**D.3.11 Appeals.**

**D.3.11.1** The User, and any person aggrieved, may file an appeal with the Township Board of Supervisors challenging the issuance, or any terms, of a permit in accordance with the Pennsylvania Local Agency Law.

**D.3.11.2** A failure to submit a timely appeal shall constitute a waiver of the right to appeal.

**D.3.11.3** A User or aggrieved party shall state with specificity in its appeal the precise permit provisions objected to, the grounds for each objection and the alternative condition, if any, it seeks to place in the permit.

**D.3.11.4** Unless a stay is requested by a User or aggrieved party and granted by the Township, a User shall comply with the requirements of the permit pending the appeal.

**D.3.11.5** If the Township Board of Supervisors fails to act on the appeal within sixty (60) days, a request for reconsideration shall be deemed denied. Decisions not to reconsider a permit issuance or permit conditions, not to issue a permit or not to modify a permit shall be considered final administrative actions for purposes of judicial review.

**D.3.11.6** Aggrieved parties seeking judicial review of the final administrative permit decision shall do so in accordance with the Pennsylvania Local Agency Act.

## **E. PERMIT ISSUANCE AND OPERATION**

### **E.1 Permit Duration.**

**E.1.1** A Class I permit shall be issued for a specified time period not to exceed five (5) years from its effective date.

**E.1.2** Class II and Class III permits shall be issued for unlimited time periods.

### **E.2 Contents of Class I and II Permits.**

**E.2.1** A Class I and II permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass through and interference, protect the quality of the water body receiving the WWTP effluent, protect worker health and safety, facilitate sludge management and disposal and protect against damage to the PO'IW.

**E.2.2** The WDP shall contain:

1. A statement of duration.
2. A statement that the permit is not transferable without prior notification to the Township in accordance with Section E.6 of this Ordinance and provisions for furnishing the new owner or operator with a copy of the existing permit;
3. A statement of the effluent limits based on applicable pretreatment standards;
4. Self-monitoring, sampling, reporting, notification and record-keeping requirements.
5. Requirements relating to identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on Federal, State, and local laws, regulations and ordinances;
6. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local laws, regulations or ordinances; and
7. Requirements to control slug discharges.

**E.2.3** A WDP may contain, among other things, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, all designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
5. The unit charge or schedule of user charges and fees for the management of the implementation of the pretreatment program;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the permit; and
8. Such other conditions as deemed appropriate by the Township to ensure compliance with this Ordinance and applicable Federal, State and local laws, regulations and ordinances.

**E.3** [Reserved].

**E.4** [Reserved].

**E.5 WDP Modifications.**

**E.5.1** The Township may modify a permit for good cause, including, but not limited to, the following reasons:

1. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
4. Information indicating that the permitted discharge poses a threat to the POTW, Township personnel, or the receiving waters;
5. Violation of any terms or conditions of the wastewater discharge permit;

6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
7. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403;
8. To correct typographical or other errors in the wastewater discharge permit; or
9. To reflect a transfer of the facility ownership or operation to a new owner or operator as allowed in Section E.6 of this Ordinance.

#### **E.6 WDP Transfers.**

**E.6.1** Class I and II permits may be transferred to a new owner or operator only if the permittee provides at least thirty (30) days advance, written notice to the Superintendent, and the Superintendent approves the transfer. The notice to the Superintendent must include a written certification by the new owner or operator containing the following:

1. A statement that there is no intent to change the facility's operations and processes;
2. The specific date on which the transfer is to occur; and
3. An acknowledgment of full responsibility for compliance with the existing permit.

**E.6.2** Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

#### **E.7 WDP Revocations.**

**E.7.1** The Superintendent may revoke a WDP for good cause, including, but not limited to, the following reasons:

1. Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section F.5 of this Ordinance;
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports;
5. Tampering with monitoring equipment;
6. Refusing to allow the Superintendent timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;

9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;
12. Failure to submit an annual report in a timely manner as specified in the permit;
13. Failure to provide advance notice of the transfer of business ownership of a permitted facility;  
and
14. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Ordinance.

**E.7.2** A WDP shall be voidable upon cessation of operations or transfer of business ownership. All WDPs issued to a particular User are void upon the issuance of a new WDP to that User.

**E.8 Reissuance of a WDP**

**E.8.1** A User with an expiring WDP shall apply for permit reissuance by submitting a complete permit application, in accordance with this Ordinance, a minimum of sixty (60) days prior to the expiration of the user's existing WDP.

**E.9 Regulation of Waste Received from Other Jurisdictions.**

**E.9.1** If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Township shall enter into an inter-municipal agreement with the contributing municipality.

**E.9.2** Prior to entering into an agreement required by this Part, the Township shall request the following information from the contributing municipality:

1. A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
2. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
3. Such other information as the Superintendent may deem necessary.

**E.9.3** An inter-municipal agreement, as required by this Part shall contain the following terms:

1. A requirement that the contributing municipality adopt a sewer use ordinance which is at least as stringent as this Ordinance and local limits which are at least as stringent as those set out in this Ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the this Ordinance or local limits;
2. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

3. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the contributing municipality and the Superintendent;
4. A requirement for the contributing municipality to provide the Superintendent with access to all information that the contributing municipality obtains as part of its pretreatment activities;
5. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
6. Requirements for monitoring the contributing municipality's discharge;
7. A provision ensuring the Superintendent access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Superintendent; and
8. A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

## **F. REPORTING REQUIREMENTS.**

### **F.1 Baseline Monitoring Reports.**

**F.1.1** Unless indicated otherwise, the reporting requirements of this Part shall apply only to Class I and II Users.

**F.1.2** Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in F.1.3, below. At least ninety (90) days prior to commencement of discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the Superintendent a report which contains the information listed in F.1.3, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards and shall provide estimates of anticipated flow and quantity of pollutants to be discharged.

**F.1.3** For the purpose of compliance with F.1.2, the following information shall be provided:

1. The name and address of the facility, including the names of the operator and owner.
2. A list of any environmental control permits held by or for the facility.
3. A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by the User, together with a schematic process diagram indicating points of discharge to the POTW from the regulated processes.

4. Information depicting / describing the measured, average daily and maximum daily flows, in gpd, to the POTW from regulated process streams and other streams, as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
5. Measurement of Pollutants:
  - (a) The categorical pretreatment standards applicable to each regulated process.
  - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Superintendent of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section F.10 of this ordinance.
  - (c) Sampling must be performed in accordance with procedures set out in Section F.11.
6. A statement, reviewed by the User or its authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
7. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule shall meet the requirements set forth in Section F.2.
8. All baseline monitoring reports must be signed and certified in accordance with subsection D.3.5.

## **F.2 Compliance Schedule Progress Reports.**

**F.2.1** The following conditions shall apply to the compliance schedule required by subsection F.1.3 (7):

1. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
2. No increment referred to above shall exceed nine (9) months;
3. The User shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

4. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

**F.3 Reports on Deadline Compliance.** Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in subsection F.1.3.4 through .6, above. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other Users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with subsection F.1.3.8, above.

**F.4 Periodic Compliance Reports.**

**F.4.1** Every SIU shall, at a frequency determined by the Superintendent, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section D.3.5.

**F.4.2** All other Class II Users shall submit an annual report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. The reports shall contain other information as deemed necessary by the Superintendent and as required by Township ordinances. All periodic compliance reports must be signed and certified in accordance with Section D.3.5.

**F.4.3** All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

**F.4.4** If a User subject to the reporting requirement in this Part monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in Section F.11, below, the results shall be included in the report.

**F.5 Reports of Changed Conditions.**

**F.5.1** Each User shall notify the Superintendent of planned, significant changes to its operations or system which may alter the nature, quality or volume of its wastewater at least sixty (60) days before implementing the change.

**F.5.2** The Superintendent may require the User to submit such information as the Superintendent deems necessary to evaluate the changed condition, including the submission of a WDP application pursuant to Part D.

**F.5.3** The Superintendent may issue a new WDP or modify an existing WDP under Parts D and E in response to changed conditions or anticipated changed conditions.

## **F.6 Reports of Potential Problems.**

**F.6.1** In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine or episodic nature, a non-customary batch discharge or a slug load, that may cause potential problems for the POTW, the User shall immediately, and in any event no later than twenty-four (24) hours, notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume (if known) and corrective actions taken by the User.

**F.6.2** Within five (5) days following such discharge, the User shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties or other liability which may be imposed pursuant to this Ordinance.

**F.6.3** A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection F.6.1, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

**F.7 Reports from Class III Users.** All Class III Users shall provide appropriate reports and other information from time to time as the Superintendent may require.

**F.8 Notice of Violation/Repeat Sampling and Reporting.** If sampling performed by a User indicates a violation, the User shall notify the Superintendent within twenty-four (24) hours of becoming aware of the violation. In addition, the User shall repeat the sampling and analysis and submit the results thereof to the Superintendent within thirty (30) days after initially becoming aware of the violation. At the sole discretion of the Superintendent, re-sampling may not be required under circumstances where monitoring is in place, or if the Superintendent conducts appropriate sampling.

**F.9 Discharge of Hazardous Waste.** No User shall discharge hazardous waste to the POTW, as defined in 40 CFR Part 261.

**F.10 Analytical Requirements.** Unless otherwise specified in an applicable, categorical pretreatment standard, all pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, then sampling and analysis must be performed in accordance with EPA approved procedures.

## **F.11 Sample Collection.**

**F.11.1** Except as indicated in F.11.2, below, the User shall collect wastewater samples using flow proportional composite collection techniques. In the event such techniques are unfeasible, the Superintendent may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the User demonstrates that this will provide a representative effluent sample. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

**F.11.2** Samples for FOG, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds shall be obtained using grab collection techniques.

**F.12 Timing.** Written reports shall be deemed to have been submitted on the date received by the Superintendent or his designee.

**F.13 Record Keeping.** Users subject to the reporting requirements of this Ordinance shall retain and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required hereby and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method and time of sampling; the name of the person(s) taking the samples; the dates analyses were performed; the name of the person performing the analyses; the analytical techniques or methods used and the results thereof. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or where the Superintendent requires a longer retention period.

## **G. COMPLIANCE MONITORING.**

### **G.1 Right of Entry, Inspection and Sampling.**

**G.1.1** The Superintendent shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Ordinance and any WDP or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

**G.1.2** Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.

**G.1.3** The Superintendent shall have the right to set up on the User's premises, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.

**G.1.4** The Superintendent may require the User to install monitoring and sampling equipment as necessary. Such equipment shall be maintained at all times in a safe and good working condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated on an annual basis to ensure accuracy.

**G.1.5** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User upon the written or verbal request of the Superintendent. All costs of clearing and maintaining such access shall be borne by the User.

**G.1.6** Unreasonable delays in allowing the Superintendent access to the User's premises shall be a violation of this Ordinance.

**G.1.7** In all circumstances, the rights granted the Superintendent hereunder shall be consistent with the obligation of the permittee under the NPDES permit for the POTW.

**G.2 Search Warrants.** If the Superintendent has been refused or constructively refused access to a building, structure or property, or any part of a building structure or property and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance; there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance

with this Ordinance or any permit or order issued hereunder or a need to protect the overall public health, safety and welfare of the community; then the Superintendent may seek issuance of a search warrant in accordance with applicable law.

## **H. CONFIDENTIAL INFORMATION.**

**H.1** Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs and from the Superintendent's inspection and sampling activities shall be available to the public without restriction, unless the User specifically requests that it be withheld and is able to demonstrate to the satisfaction of the Superintendent that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable law. Any such request must be asserted at the time of submission of the information or data. When so requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available to the public for inspection. Nothing contained herein shall preclude the furnishing of such information to governmental agencies for uses related to the NPDES program or pretreatment program or in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

**H.2** The above notwithstanding, the confidential nature of a User's information shall not constitute grounds to withhold such information from the Township or its Authorities.

## **I. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.**

**I.1** The Superintendent shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the Users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The phrase "significant noncompliance" shall mean:

1. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
2. Technical Review Criteria (TRC) violations, defined here as those in which thirty- three percent (33%) more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS and FOG and 1.2 for all other pollutants, except pH);
3. Any other discharge violation that the Superintendent believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
4. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;

5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
6. Failure to provide within thirty (30) days after the due date any required reports including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s) (including violations of best management practices) which the Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

## **J. ENFORCEMENT, VIOLATIONS AND PENALTIES.**

### **J.1 General Enforcement Procedures.**

**J.1.1** The Township will prepare and adopt an enforcement response guide for the purpose of assisting in identifying industrial user noncompliance and responding with appropriate enforcement measures. The enforcement response guide will be adopted by resolution of the Board of Supervisors and may be amended or modified from time to time by resolution. Available enforcement options include suspension of wastewater treatment service, permit revocation, assessment of civil and/or criminal penalties, assessment of administrative fines, issuance of administrative orders and court action, both at law and in equity.

**J.1.2** The remedies set forth in this Part are not exclusive. The Township reserves the right to take any, all or a combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Township's enforcement response plan, however, the Township reserves the right to take other action against any User when, in the sole discretion of the Township, the circumstances warrant. Further, the Township, or the Superintendent as the case may be, are empowered to take more than one enforcement action against a noncompliant User or to take concurrent actions.

**J.1.3** In any civil, criminal or administrative action instituted hereunder, the Township shall be entitled to recover from a User all of its costs of litigation, including but not limited to filing fees, witness fees, document costs, expert witness fees, court costs and reasonable attorney fees. Where an action is commenced by the issuance of a Notice of Violation, the litigation costs which the Township may recover shall extend back to the commencement of any investigation resulting in the issuance of the Notice of Violation. Recoverable costs shall include costs incurred by the Township for sampling, testing, monitoring and actual damages.

### **J.2 Administrative Enforcement Remedies.**

**J.2.1 Notice of Violation.** When the Superintendent finds that a User has violated or continues to violate any provision of this Ordinance, a WDP, an order issued hereunder or any other pretreatment standard or requirement, the Superintendent may serve upon that User a written NOV. The NOV shall include an explanation of the violation, a remediation plan for the satisfactory correction of the violation and future prevention thereof, a statement of required actions and any other relevant information. Submission of the remediation plan shall not relieve the User of liability for violations occurring before or

after receipt of the NOV. Within thirty (30) days of the date of the NOV, the User shall provide to the Superintendent an explanation as to the cause of the violation. Nothing in this Section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a NOV.

**J.2.2 Consent Orders.** The Superintendent may enter into Consent Orders, assurances of voluntary compliance or other similar documents establishing an agreement with a noncompliant User. Such agreements shall include, among other things, a statement of the specific action to be taken by the User to correct the noncompliance together with a specific date for compliance. Such agreements shall have the same force and effect as administrative orders issued pursuant to subsections J.2.4 and J.2.5 of this Ordinance and shall be judicially enforceable.

**J.2.3 Show Cause Hearing.** The Superintendent may order a User which has violated, or continues to violate, any provision of this Ordinance, a WDP, order issued hereunder or any other pretreatment standard or requirement, to appear before the Superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User or its authorized representative specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least twenty (20) days prior to the meeting. Whether or not the User appears as ordered, immediate enforcement action may be taken thereafter. A show cause hearing shall not be a bar against, or prerequisite for, the taking of any other action against the User.

**J.2.4 Compliance Orders.** When the Superintendent finds that a User has violated, or continues to violate, any provision of this Ordinance, a WDP, order issued hereunder or any other pretreatment standard or requirement, the Superintendent may issue an order to the responsible User directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order shall not extend the deadline for compliance established for a pretreatment standard or requirement, and it does not relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, the taking of any other action against the User.

**J.2.5 Cease and Desist Order.** When the Superintendent finds that a User has violated, or continues to violate, any provision of this Ordinance, a WDP, order issued hereunder or any other pretreatment standard or requirement, or if he finds that the User's past violations are likely to recur, the Superintendent may issue an order to the User directing it to cease and desist all such violations and to:

1. Immediately comply with all requirements; and
2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, the taking of any other action against the User.

### **J.2.6 Administrative Fines.**

**J.2.6.1** When the Superintendent finds that a User has violated, or continues to violate, any provision of this Ordinance, a WDP, order issued hereunder or any other pretreatment standard or requirement, the Superintendent may fine such User in an amount not to exceed \$1,000.00 per day. A fine shall be assessed on a per-violation, per-day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation. The Superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

**J.2.6.2** Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one and one half percent (1.5%) per month. A lien against the user's property may be filed for unpaid charges, fines, and penalties.

**J.2.6.3** A User desiring to dispute a fine must first file a written request to the Superintendent to reconsider the fine together with full payment of the fine and related charges within thirty (30) days of being notified of the fine. Where the Superintendent determines that the request may have merit, he may convene a hearing on the matter. If following the hearing, the Superintendent determines that the request is meritorious, the payment (or applicable portion thereof), together with any interest accruing thereon, shall be returned to the User.

**J.2.6.4** Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

### **J.2.7 Emergency Suspensions.**

**J.2.7.1** The Superintendent may immediately suspend a User's discharge after informal notice to the User whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the public health, safety or welfare. In addition, after notice and opportunity to respond, the Superintendent may immediately suspend a User's discharge which threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.

**J.2.7.2** Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to individuals. The Superintendent may permit the User to recommence its discharge when the User has demonstrated to the satisfaction of the Superintendent that the period of endangerment has past, unless termination proceedings pursuant to subsection J.2.8 of this Ordinance are initiated.

**J.2.7.3** A User that is responsible, in whole or in part, for any discharge actionable hereunder shall submit to the Superintendent a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. The written statement shall be submitted prior to the date of any show cause or termination hearing under subsections J.2.3 or J.2.8 of this Ordinance.

**J.2.7.4** Nothing in this subsection J.2.7 shall be interpreted as requiring a hearing prior to any emergency suspension.

### **J.2.8 Termination of Discharge.**

**J.2.8.1** In addition to the provisions of Section E.7 of this Ordinance, any User who violates the following is subject to discharge termination:

1. Violation of wastewater discharge permit conditions;
2. Failure to accurately report the wastewater constituents and characteristics of its discharge;
3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the pretreatment standards in Part B of this Ordinance.

**J.2.8.2** Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section J.2.3 hereof why the proposed action should not be taken. Exercise of this remedy by the Superintendent shall not be a bar to, or a prerequisite for, the taking of any other action against the user.

### **J.3 Judicial Enforcement Remedies.**

**J.3.1 Equitable Relief.** When the Superintendent finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent may petition the court through the Township's Solicitor for the issuance of a temporary or permanent injunction, or other equitable relief as appropriate, to restrain activities or compel the specific performance of the wastewater discharge permit, order or other requirement imposed by this Ordinance on the User. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement that the User perform environmental remediation. The Superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Township. A petition for injunctive relief shall not be a bar against, or a prerequisite for, the taking of any other action against a User.

#### **J.3.2 Civil Penalties.**

**J.3.2.1** A User who has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, order issued hereunder or any other pretreatment standard or requirement shall be liable to the Township for a maximum civil penalty of not less than \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

**J.3.2.2** In determining the amount of civil liability, the court may take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User and any other factors as justice requires.

**J.3.2.3** Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, the taking of any other action against a User.

**J.3.3 Criminal Prosecution.**

**J.3.3.1** A User who willfully, recklessly or negligently violates any provision of this Ordinance, a wastewater discharge permit, order issued hereunder or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1000 per violation, per day, or imprisonment for not more than one (1) year, or both.

**J.3.3.2** A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1000, or be subject to imprisonment for not more than one (1) year, or both. This penalty shall be in addition to any other cause of action available under law.

**J.3.3.3** A User who knowingly makes any false statements, representations or certifications in any application, record, report, plan, or other documentation filed or required to be maintained pursuant to this Ordinance, a wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of not more than \$1000 per violation, per day, or imprisonment for not more than two (2) years, or both.

**J.3.3.4** Nothing contained herein shall limit the authority of law enforcement officials to charge a User with other, appropriate criminal offenses and seek punishment commensurate therewith.

**K. SUPPLEMENTAL ENFORCEMENT MEASURES.**

**K.1 Performance Bonds.** The Superintendent may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, order issued hereunder or any other pretreatment standard or requirement, unless such User first provides a satisfactory bond, payable to the Township, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.

**K.2 Liability Insurance.** The Superintendent may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, order issued hereunder or any other pretreatment standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

**K.3 Water Supply Severance.** Whenever a User has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, order issued hereunder or any other pretreatment standard or requirement, water service to the User may be severed. Service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

**K.4 Public Nuisances.** A violation of any provision of this Ordinance, a wastewater discharge permit, order issued hereunder or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the applicable provisions of Township ordinances governing such nuisances or activities, including reimbursing the Township for any costs incurred in removing, abating, or remedying said nuisance.

**K.5 Contractor Listing.** Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Township. Existing contracts for the sale of goods or services to the Township held by a User found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Superintendent.

**K.6 Payment of Outstanding Fees and Penalties.** The Superintendent may decline to issue or reissue an individual wastewater discharge to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

## **L. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.**

### **L.1 Upset.**

**L.1.1** For the purposes of this Section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

**L.1.2** An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Section L.1.3 below, are met.

**L.1.3** A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:

1. An upset occurred and the User can identify the cause(s) of the upset;
2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
3. The User submitted the following information to the Superintendent within twenty-four (24) hours of becoming aware of the upset (if initially this information is provided orally, a written submission must be provided within five (5) days:
  - i. A description of the indirect discharge and cause of noncompliance;
  - ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - iii. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

**L.1.4** In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

**L.1.5** Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

**L.1.6** Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**L.2 Prohibited Discharge Standards.** A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subsection B.1.1 of this Ordinance or the specific prohibitions in subsection B.1.2 of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the pass through or interference; or
2. No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Township was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

**L.3 Bypass.**

**L.3.1** For the purposes of this Section,

1. "Bypass" means the intentional diversion of waste streams from any portion of a User's treatment facility.
2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

**L.3.2** A User may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections L.3.3 and L.3.4.

**L.3.3** If a User knows in advance of the need for a bypass, it shall if possible submit prior notification to the Superintendent at least ten (10) days before the date of the bypass.

**L.3.4** A User shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the same. Thereafter, a written submission shall be submitted within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass, the cause; the duration of the bypass (including exact dates and times), if the bypass has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

**L.3.5** Bypass is prohibited, and the Superintendent may take enforcement action against a User for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back- up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
3. The User submitted notices as required under Sections L.3.3 and L.3.4.

**L.3.6** The Superintendent may approve an anticipated bypass after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in Section L.3.5.

## **M. WASTEWATER TREATMENT RATES.**

[RESERVED]

## **N. EXTRATERRITORIALITY.**

The authority granted to the Superintendent or the Township under this Ordinance shall extend beyond the municipal boundaries of the Township into other municipal jurisdictions whose sanitary sewer service forms a part of the POTW and is within the jurisdiction of the NPDES Permit.

## **O. MISCELLANEOUS PROVISIONS.**

**O.1 Pretreatment Charges and Fees.** The Township may adopt by resolution from time to time reasonable fees and mechanisms for reimbursement of costs of setting up and operating the programs established by or referred to in this Ordinance which may include:

1. Fees for WDP applications including the cost of processing such applications;
2. Fees for monitoring, inspection and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports submitted by Users;
3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals;
5. Other fees as the Township may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Ordinance and are separate from all other fees, fines and penalties chargeable by the Township; and
6. The establishment of escrow accounts funded by the User and in the name(s) of the Township or its Authorities.

## **III. SAVINGS CLAUSE.**

To the extent that any word, phrase, portion or provision of the text herein is found by any court of competent jurisdiction to be invalid, void or unconstitutional; such word, phrase, portion or provision shall, to the extent possible, be deemed to be repealed and those remaining valid portions of the text shall remain in full force and effect, provided that the same can be accomplished without the structure of this Ordinance having been destroyed by elimination of that word, phrase, portion or provision found to be invalid or void.

## **IV. PROTANTO REPEAL.**

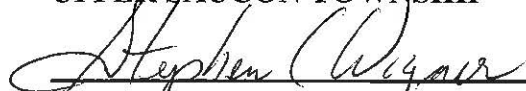
Except as otherwise stated herein, all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed to the extent of such conflict. Ordinance 42-L is specifically repealed.

## **V. EFFECTIVE DATE.**


This Ordinance shall become effective five (5) days after enactment by the Board of Supervisors.


**DULY ENACTED AND ORDAINED** this 12<sup>th</sup> day of May, 2014, by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania, in lawful session duly assembled.

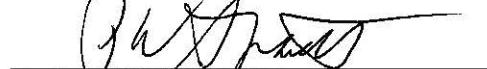
**BOARD OF SUPERVISORS  
UPPER SAUCON TOWNSHIP**

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Vice-Chairman

  
\_\_\_\_\_  
Supervisor

  
\_\_\_\_\_  
Supervisor

  
\_\_\_\_\_  
Supervisor

**ATTEST:**

  
\_\_\_\_\_  
Secretary